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THURSDAY, SEP 06

## Lulu Gets Pissed About Hulu, Files Lawsuit

As best we can tell, [Hulu.com](#) is some kind of entertainment-based social networking platform. **Lulu.com** enables anyone to get an ISBN and have a "book" printed. So what's the problem? [According to Lulu](#), a [lot](#): trademark infringement, unfair and deceptive trade practices and for federal cyberpiracy, as per a lawsuit the company has just filed. In the complaint, filed in US District Court in Raleigh, NC, Lulu alleges that "Hulu, as a result of their recent name and Internet domain announcements, have intentionally attempted to create confusion in the marketplace. Hulu, in name, as a mark and in their business as a digital content distribution platform, represents a definitive encroachment."

Which, frankly, seems like a bit of a stretch. If it was, say, Looloo or Lula or Lu-lu, maybe I could buy the argument. But that the name rhymes? Nope.

Posted by Sarah | [07:35 AM](#) | [Web & Tech](#)

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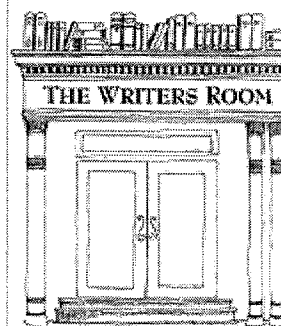
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September 5, 2007 5:54 PM PDT

## Battle of the ulu.com's: Lulu.com vs. Hulu.com

Posted by Stefanie Olsen

This case could surely elicit some giggles from the rhyme police. Lulu.com said Wednesday that it has filed suit against Hulu.com for trademark infringement on the grounds that the two names and business models are too similar and will create confusion in the market.

Lulu.com, a service that lets members publish, print and sell their own books, has been around for five years, according to the company. Hulu.com is a joint digital video partnership between NBC Universal and News Corp., whose corporate entity N-F Newsite announced the name last week. The lawsuit, filed Wednesday in U.S. District Court in North Carolina, charges N-F Newsite with trademark infringement, unfair and deceptive trade practices, and federal cyberpiracy.

"We have spent more than five years and tens of millions of dollars in investment successfully building the Lulu brand and website into a place for millions of creators and consumers to publish, buy, sell and manage digital content," Lulu CEO Bob Young said in a statement.

According to gossip site Valleywag, News Corp. took over the domain Hulu.com from a small family that used the site for posting family photos.

**TOPICS:** Media

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#### May not be a problem

rcrusoe  
Sep 6, 2007, 4:08 AM PDT

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### the more you know (was that NBC)??: reader comment from fortyonejb

Posted on: September 6, 2007, 7:37 AM PDT

Story: Battle of the ulu.com's: Lulu.com vs. Hulu.com

OR, the truth of the matter is that iTunes demands were unfavorable and amazon proved a better medium. Only an apple drone would see that as a poor business move. Amazon is platform independent while iTunes shoves their proprietary practices down your throat. Thats why it is just your opinion, too bad its wrong.

Now on the hulu vs. lulu debate. It seems rather silly to me. I don't see how similar they are. One is for self publishing books, and the other is for watching TV over the internet. Now if NBC named it loost I could see people getting confused. This "brand confusion" stunt by lulu is nothing more than an attempt to draw attention to their site.

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## **EXHIBIT E-9**

# Between the Lines

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## Lulu wants to meet Hulu in Sulu court

Posted in:

- Legal

As you might recall, NBC Universal and News Corp. announced last week that it would call its well funded, fledgling content distribution service Hulu.com (which ironically means “cease and desist” in Swahili). Now Lulu.com, which calls itself the “premiere marketplace for new digital content on the Web” wants to sue Hulu for name similarity infringement. Here is the salient part of the note from Lulu’s Ken Peters, standing in for Lulu founder Robert Young, also a founder of Red Hat:

As you may know, the previously unnamed joint venture for digital content distribution between NBC Universal and News Corp. announced last week that it would call itself Hulu.com. Because of their obvious similarities, the name Hulu.com presents a serious threat to the brand that Lulu.com has worked to build over the past five years.

Lulu.com has filed for an injunction against Hulu.com to prevent it from continuing to use the Hulu.com name. The lawsuit seeks only for Hulu.com to stop using the name to avoid confusion in the marketplace between these two digital content platforms, especially for the more than 1.2 million Lulu.com customers.

Because of their obvious similarities, the name Hulu.com presents a serious threat to the brand that Lulu.com has worked to build over the past five years. The lawsuit seeks only for Hulu.com to stop using the name to avoid confusion in the marketplace between these two digital content platforms, especially for the more than 1.2 million Lulu.com customers.

Here are the two sites. Are you confused? Hulu, Lulu, Zulu, Culu, Vulu and of course Sulu.





posted by Dan Farber  
September 5, 2007 @ 4:55 pm

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## **EXHIBIT E-10**



☐ Joseph Laszlo ☒ All analysts

## Lulu Dislikes Hulu

[<< Not Galactica!](#) | [Main](#)

**Joseph Laszlo | September 06, 2007, 05:40 PM**

**Valleywag reports** that eensy weensy (771K visitors for July, according to **compete.com**) Web 2.0 content tools provider Lulu.com is suing huge behemoth NewsCorp/NBC JV Hulu.com for trademark infringement and deceptive trade practices. Lulu clearly hasn't thought this through; their traffic's bound to go up, at least a bit, from the occasional (if somewhat unlikely) typos that Hulu visitors are going to generate.

Actually, if anyone's going to sue Hulu it should be Mr. Sulu. There's not, after all, that much difference between the ability to navigate to the stars of online video and the ability to navigate among the stars on video.

Okay that should get the geekiness out of my system for a while.

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## **EXHIBIT E-11**

5 of 33 DOCUMENTS

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September 7, 2007 Friday 1:16 PM EST

**LENGTH:** 245 words

**HEADLINE:** UFC 76: Lulu vs. Hulu

**BODY:**

Sep. 7, 2007 (DealBreaker0 delivered by Newstex) -- There can be only one "ulu!" We gave the brain trust at NBC and NewsCorp some well-deserved flack over the decision to name their \$1 billion video content portal "Hulu" after an inexplicable multi-month nomenclatural funk and near-extinction of Fantasia (or Fantastica) from the all-consuming Nothing. It seems Lulu is equally perplexed by the decision, and the one letter difference between the new name and its own. Lulu is suing Hulu (if litigatory karma exists, NBC and NewsCorp are right under Viacom in the pecking order of companies that need to be sued). Here's more, from the Hulu.com, NBC Universal (GE) and News Corp.'s (NWS) soon-to-launch video Web site, has been slapped with a trademark infringement lawsuit by Lulu Enterprises for picking a name too similar to its own. Lulu, which controls the Web sites lulu.com and lulu.tv and specializes in digital self-publishing services for budding filmmakers, musicians and authors, claims in a suit filed in federal court in Raleigh, N.C., that NBC and News Corp.'s decision to name their service Hulu represents an intentional attempt to create confusion in the marketplace and an encroachment on its business. Do the Zulu's have enough lawyers on hand to enter the fray? We hear creator god Nkulunkulu is especially pissed, but is not really an interventionist when it comes to human affairs. HULLABALOO OVER HULU [New York  
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**LOAD-DATE:** September 7, 2007

## **EXHIBIT E-12**

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SEP 12, 2007

## Lulu vs. Hulu

I am a convinced Lulu fan, but public relations news like this that follows, make me really wonder whether people at Lulu don't have enough work to do.

Lulu sues a new company called Hulu. Yes, the spellings are quite similar, but common, would you sue someone for any rhyme? It's not Lulu, it is not Lula or Lulu Lulu... Lulu Lulu. It's Hulu. You cannot misspell that. You cannot say Lulu and hear Hulu.

Also Lulu suggested that Hulu covers the same business industry. I am a Lulu user and I will not leave a self publishing service for a video sharing service. Two different industries. Two different purposes.

I've been in the online PR business since 5 years already and there is no way Lulu can win this trial. It is however a pretty expensive PR manoeuvre.

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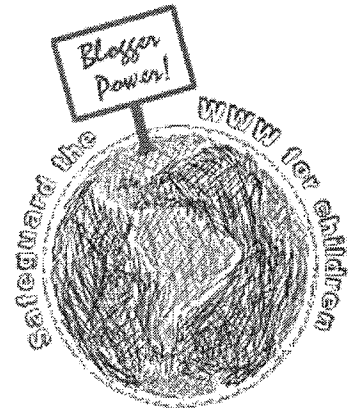
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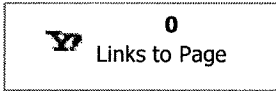
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## **EXHIBIT E-13**

# DIGITAL MEDIA LAW

THOUGHTS ABOUT THE LATEST NEWS IN THE LAW AND BUSINESS OF DIGITAL MEDIA, TRADITIONAL ENTERTAINMENT, IP, AND TECHNOLOGY. FROM JONATHAN HANDEL, OF COUNSEL AT TROYGOULD IN LOS ANGELES.

THURSDAY, SEPTEMBER 6, 2007

## Lulu Ululates Over Hulu

Lulu.com is suing Hulu.com for trademark infringement, reports CNET. (To "ululate" means to howl or wail, and when else am I ever going to get to use that word?)

Crux of the complaint is that the names and business models are too similar and will cause consumer confusion. The names certainly are similar, but the business models seem different: Lulu.com is a self-publishing service (print, publish and sell your own books), whereas Hulu.com is a recently-announced digital video company jointly owned by NBC Universal and News Corp. I'm not sure where the confusion lies, but I guess we'll see.

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POSTED BY JONATHAN HANDEL AT 10:48 PM

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## ABOUT ME



JONATHAN HANDEL  
LOS ANGELES,  
CALIFORNIA, UNITED  
STATES

I'm Of Counsel at TroyGould ([troygould.com](#)) and practice digital media, entertainment and technology law. I'm equally at home in all of these industries. For instance, I've worked at the Writers Guild and at a small boutique law firm representing movie stars and directors - and have even taught film appreciation classes - but I've also worked in the computer business, prior to law school. \*\*\*\*\*

Education: Harvard College (A.B., Applied Math/Computer Science, magna cum laude). Harvard Law School (J.D., cum laude). \*\*\*\*\*

Other Experience: I clerked on the U.S. Court of Appeals (5th Cir.), and also served as a federal Associate Independent Counsel in an

## **EXHIBIT E-14**



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## No Love for Rhymes

on 06 September 2007, 16:25

by Leah Messinger

Trademark disputes often lack rhyme or reason. In the case of Lulu v. Hulu, at least there's a rhyme.

This week Lulu, a company that helps users self-publish books and multimedia content, filed a complaint in North Carolina District Court against Hulu, the NBC-News Corp.-backed professional video site still under development. In a statement, Lulu accuses Hulu of trademark infringement, unfair and deceptive trade practices, and cyberpiracy.

"It is clear we are required to move quickly to protect our intellectual property and defend ourselves against this infringement before it significantly damages our business," said Lulu CEO Bob Young in a statement.

Mr. Young founded Lulu in Raleigh, North Carolina in 2002 and prior to that he co-founded open source software company Red Hat. Now he's concerned that that Hulu is trying to capitalize on Lulu's audience by creating confusion in the marketplace. (A reporter trying to keep the companies straight as she reports this story can see his point.)

Though Hulu won't enter private beta until October, the site received its official name last week. Previously it had been referred to only as "Newsite." Once it launches it will offer up shows from NBC and Fox, including Heroes, 24, and Bones, to Internet viewers.

And that's a concern for Mr. Young's Lulu.tv, which lets users sell their digital media creations through the site. Although Lulu.tv offers an outlet for the sale of user-generated video content, Mr. Young seems to be concerned that Hulu's studio-produced offerings will steal some of the online video spotlight he's worked hard to capture. In the statement Lulu points to a concern that Hulu's products and services "are related to, and even identical to, the services that Lulu provides under its Lulu marks." To the lay viewer, however, the sites appear to have little overlap.

Hulu spokesperson Christina Lee declined to comment on current litigation.

Despite the fact that the two sites appear to offer vastly different services, it's no wonder Hulu's \$100 million private equity investment for a valuation reportedly worth \$1 billion has Mr. Young worried about confusion in the marketplace.

"We have spent more than five years and tens of millions of dollars in investment successfully building the Lulu brand and website into a place for millions of creators and consumers to publish, buy, sell and manage digital content," said Mr. Young.

For his part, when Hulu CEO Jason Kilar announced his venture's new name last week his tone made it seem as if the word "Hulu" had been chosen practically on a whim.

"Objectively, Hulu is short, easy to spell, easy to pronounce, and rhymes with itself," Mr. Kilar wrote in a blog post.

In the North Carolina courts, however, rhyming may not prove to be such a good thing.

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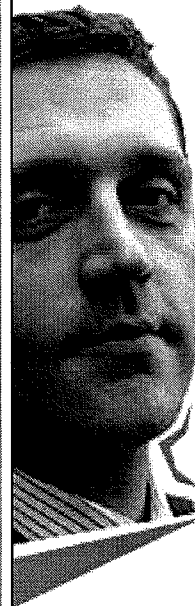
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## **EXHIBIT E-15**

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## Lulu Sues Hulu or How Desperate Online Marketers Fight for the Top of the Web

Posted by: Ben Ashton, in [Internet Marketing](#)

It makes no sense, but it happens. Lulu, a self publishing service provider, sues Hulu, a beta application of what later will probably be (another) video sharing.

Public relations trick (as some bloggers insinuate) or a real copyright infringement?

Lulu is in no danger whatsoever because of Hulu. Hulu doesn't target the same market. Hulu doesn't offer to the ordinary writer with no actual possibilities the opportunity to publish his/her own content and even get paid for it. Hulu is a Veoh, and YouTube... Nothing special. Hulu is an ordinary copy of what many other websites already offer successfully...

The only problem Lulu has is Hulu's name. Hulu rhymes with Lulu. That's bad, they say. And they start the fight.

When the web becomes a battle field and the reasons to go against another web marketer are so facile, I cannot help but wonder: what is next? Will Google sue a company called Ogle? Or a "go ogle"? Let's have some common sense and instead of wastriaing time and money on irrelevant trials, let's bring even more value for the users (although in Lulu's case "value" is not something we can debate, for there is enough value in what they have to offer already.)

Does Lulu's maneuver matter from an SEO perspective? More or less. Because many bloggers and journalists will write about this topic and provide a link back to Lulu ([www.lulu.com](http://www.lulu.com)) the answer is yes. But the SEO value is nothing compared to the "buzz." Lulu's latest trick will drive enough traffic to the site these days.

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## **EXHIBIT E-16**

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# Lulu's Hulubulu

Lessee, can you sue a company over phonetics? I suppose you can sue anybody for anything. But, can you PREVAIL in a lawsuit over the phonetic similarity of a company's name? Coke - Koch? McDonald's - Macdonald's? Frye's - Frey's?

Lulu's about as close to the online video business as my great grammy's website. I can SAY I'm going to get into the online video business with a gazillion different DBA's... doesn't mean jack.

I suppose they'll sue little old Xulu.com next because they intended to get into interdimensional entertainment too. Nitwits!

I'm with Neal Boortz... Looser should pay all partys' atty fees on ANY/ALL lawsuits filed.

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